

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CH2642
)	EEOC NO.: N/A
PHYLLIS GUAJARDO,)	HUD NO.: 050906518
)	ALS NO.: 09-0329
Complainant.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Gregory Simoncini presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2009CH2642, Phyllis Guajardo, Complainant, and Housing Authority for LaSalle County, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request, and the Department's response to the Complainant's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Complainant's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On February 23, 2009, the Complainant filed an unperfected charge of discrimination with the Department, perfected on March 6, 2009, in which she alleged that the Respondent issued her a 30-day Notice of Termination of Tenancy ("the Notice") on July 25, 2008 because of her mental disability, in violation of § 3-102.1(B) of the Illinois Human Rights Act (the "Act"). On June 10,

2009, the Department dismissed the Complainant's charge for lack of substantial evidence. On June 15, 2009, the Complainant filed a timely Request.

2. The undisputed evidence in the investigation file shows that the Complainant was a tenant in an apartment unit in an apartment complex (the "Subject Property") that was owned by the Respondent.
3. At the time of her tenancy at the Subject Property, the Complainant was subject to the terms of a lease which contained the following terms: **(a)** Section 6 of the lease provided that when utilities, including electricity, were not included in the rent, the tenant was obligated to maintain their utilities in order to prevent the pipes from freezing, and **(b)** Section II, paragraph 11P of the lease provided that pets were only allowed in the Subject Property with the Respondent's prior written approval.
4. The Complainant's utilities were not included in her rent. Therefore, pursuant to Section 6 of her lease, she was responsible for paying for her utilities.
5. On April 4, 2007, the Respondent observed the Complainant with a dog on the Subject Property. The Respondent gave the Complainant an application to complete so that she could obtain the Respondent's approval to have the dog on the Subject Property. The Complainant never completed the application, and she never obtained written approval from the Respondent to have a dog on the Subject Property.
7. On July 25, 2008, the Respondent observed the Complainant's son leaving the Subject Property with a dog. Also on July 25, 2008, the Respondent observed a utility company disconnecting the electricity to the Complainant's apartment unit because the Complainant had failed to pay her electric bill.
8. On July 25, 2008, the Respondent served the Complainant with the Notice. The Respondent stated that it served the Complainant with the Notice because she had violated her lease terms and the Respondent's rules.
9. The Complainant contends that the Respondent served her with the Notice because of her mental disability.

10. The Commission's review of the Department's investigation file leads it to conclude that the Department properly dismissed the Complainant's charge for lack of substantial evidence.
11. In order to establish a *prima facie* case of disability discrimination, there must be some evidence that the Complainant was a member of a protected class; that she was a tenant in good standing; that the Respondent altered the terms, conditions, and privileges of the Complainant's real estate transaction, and that the Respondent treated a similarly situated non-disabled tenant more favorably under similar circumstances. See Turner v. Human Rights Commission, 177 Ill.App.3d 476, 488, 532 N.E.2d 392, 399 (1st Dist. 1988).
12. In this case, the Complainant fails to show that she was a tenant in good standing at the time that she was served with the Notice because the evidence in the file shows that the Complainant was in violation of the terms of her lease and of the Respondent's rules.
13. Further, there is no evidence in the file that the Respondent failed to evict non-disabled tenants for violating their lease provisions or the Respondent's rules. The file shows that the Respondent has issued notices of eviction to its non-disabled tenants for failing to pay their utilities and for failing to follow the Respondent's policy regarding pets.
14. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of the charge was not in accordance with the Act. The Complainant's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Complainant's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the Housing Authority for LaSalle County, as

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appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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Entered this 16th day of September 2009.

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Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini